

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

**ROBERT RALPH EIFERT, II and
DAVID FERNANDO RUBAL,**

Defendants.

8:06CR52

ORDER

This matter is before the court on the motion of David Fernando Rubal to continue trial [23]. Defendant Rubal will be required to file a waiver of speedy trial in accordance with NECrimR 12.1(a).¹ A continuance is necessary due to defense counsel's scheduling conflicts. For good cause shown,

IT IS ORDERED that the motion to continue trial [23] is granted, as follows:

1. Trial is hereby continued from July 11, 2006 to **August 1, 2006**, before Judge Laurie Smith Camp and a jury.
2. The ends of justice will be served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. Any additional time arising as a result of the granting of this motion, that is, the time between **July 11, 2006 and August 1, 2006**, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act for the reason that failure to grant such a continuance in the proceeding would be likely to make a continuation of such proceeding impossible, or result in a miscarriage of justice. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

¹The rule provides:

12.1 Motions to Continue Trial.

(a) Content of Motion. Unless excused by the court in individual cases, a motion to continue the trial setting of a criminal case must state facts demonstrating that the ends of justice served by a continuance outweigh the best interest of the public and the defendant in a speedy trial, (see 18 U.S.C. § 3161(h)(8)), or that for some other reason, the continuance will not violate the Speedy Trial Act. Unless excused by the court in individual cases, if the defendant is a moving party the motion shall be accompanied by the defendant's affidavit or declaration (see 28 U.S.C. § 1746) stating that defendant:

- (1) Was advised by counsel of the reasons for seeking a continuance;
- (2) Understands that the time sought by the extension may be excluded from any calculation of time under the Speedy Trial Act, 18 U.S.C. § 3161 et seq.;
- (3) With this understanding and knowledge, agrees to the filing of the motion; and
- (4) Waives the right to a speedy trial.

3. Defendant shall file a waiver of speedy trial on or before **June 30, 2006**.
4. Counsel for the United States shall confer with defense counsel and, no later than **July 25, 2006**, advise the court of the anticipated length of trial.
5. This order applies to all defendants.

DATED June 26, 2006.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**